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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,275	08/21/2003	Edward J. Wilgenburg	03395.002	7234
20576	7590	03/04/2004	EXAMINER	
MILLER JOHNSON SNELL CUMMISKEY, PLC 800 CALDER PLAZA BUILDING 250 MONROE AVE N W GRAND RAPIDS, MI 49503-2250			FERNSTROM, KURT	
			ART UNIT	PAPER NUMBER
			3712	

DATE MAILED: 03/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/645,275	Applicant(s) WILGENBURG ET AL.	
	Examiner Kurt Fernstrom	Art Unit 3712	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-12, 15, 16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis in view of Soccer Tennis. Ellis discloses in Figures 1-4 and in column 2, line 24 to column 3, line 54 of the specification an apparatus comprising first and second leg assemblies, each comprising members 12 and legs 38, and cross members 24 and 50 which are attachable to and supported by the leg assemblies to provide an obstacle for use during a game. Ellis does not disclose that the device is used as a soccer training apparatus. Soccer Tennis discloses the use of a net or other obstacle as a soccer training apparatus, whereby the players divide into teams on each side of the obstacle and kick the ball over the obstacle in volleys in a game of soccer-tennis. It would have been obvious to modify the apparatus of Ellis by providing for use as a soccer training apparatus for the purpose of enabling soccer players to develop juggling and other skills useful in soccer. With respect to claim 1, providing a cross member adapted to receive the leg assemblies is considered to be an obvious variation on the teachings of Ellis, which discloses leg assemblies adapted to receive the cross member 50. With respect to claims 3, 4 and 11, providing a cross bar of predetermined

Art Unit: 3712

length would have been obvious in light of the fact that such a feature is well known, as disclosed for example by Soccer Tennis, which discloses the use of a conventional tennis net. With respect to claims 9, 15 and 16, Ellis discloses couplers 30 attached to an end of each tubular leg 38 of each leg assembly for providing a stanchion, and detachably coupled to cross members 24. With respect to claims 10 and 18, Ellis discloses in column 5, lines 39-65 that the support assemblies are adjustable in length. With respect to claim 12, Ellis discloses in column 8, lines 38-44 that cross members 24 and 50 are both adjustable in length.

Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis in view of Soccer Tennis, and further in view of Cragg. Ellis as viewed in combination with Soccer Tennis discloses all of the limitations of the claims with the exception of the telescoping members of the support assemblies and cross member. Cragg discloses in Figures 12 and 13 and in column 9, lines 25-45 sports training apparatuses comprising frames wherein the support assemblies 12 and 26 comprise telescopically connected members. It would have been obvious to one of ordinary skill in the relevant art to modify the device disclosed by Ellis as viewed in combination with Soccer Tennis by providing telescopically connected support assembly members for the purpose of allowing the user to more easily adjust the height of the apparatus. Providing a cross member having a similar structure would also have been obvious for similar purposes, in light of the fact that Ellis discloses a cross member 24 having a plurality of sections to allow for length adjustment.

Art Unit: 3712

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis in view of Soccer Tennis, and further in view of Pavonetti. Ellis as viewed in combination with Soccer Tennis discloses all of the limitations of the claim with the exception of the pivotal coupling of the support members to the cross member. Pavonetti discloses in Figure 4 and in column 4, line 1 to column 5, line 67 a sports training apparatus comprising a frame wherein the support assemblies are pivotally attached to the cross member. It would have been obvious to one of ordinary skill in the relevant art to modify the device disclosed by Ellis as viewed in combination with Soccer Tennis by providing pivotally connected support assembly members for the purpose of providing more convenient storage for the device.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Chen, Logan, Lichtwardt, Welbourn, Daskoski, Mancke, Mullin and Postol disclose various apparatuses for sports training. Trotman discloses a method of playing a soccer tennis type game.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Fernstrom whose telephone number is (703) 305-0303. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (703) 308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3712

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KF
March 2, 2004


Kurt Ferstrom